



North Carolina and the Bill of Rights



NORTH CAROLINA
DEPARTMENT OF
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Overview—North Carolina and the Bill of Rights

In the midst of the Revolutionary War, North Carolina set about to form a government. The Fifth Provincial Congress convened in Halifax on November 12, 1776, for the purpose of drafting a new constitution, which they passed on December 18. However, on the previous day, a Declaration of Rights was adopted by the assembly. This document, which was very similar to legislation enacted by Maryland and Virginia and which contained ideas set forth in the Magna Charta and the English Bill of Rights of 1689, was intended to protect individual freedoms. It should be noted that the declaration refers to the rights of freemen, which included only males who owned property and could therefore vote. Obviously it omitted large segments of the public—notably minorities, women, and non-landed men. But though the protection of these rights only extended to certain segments of the population, it represented the importance of the ideal of personal freedoms to a young nation.

In 1787 a constitutional convention was convened in Philadelphia to draft a new constitution for the United States of America. Representing North Carolina at the convention were William R. Davie, Richard Dobbs Spaight, Hugh Williamson, William Blount, and Alexander Martin.

After much debate and many compromises, the Constitution was presented to the states for ratification. Blount, Williamson, and Spaight signed the document for North Carolina. Davie and Martin were absent at the time. A state convention was called to decide if North Carolina would ratify the new constitution. It convened in Hillsborough on July 21, 1788. The delegates were divided into two groups: Federalists, who supported the new constitution, and Antifederalists who opposed it. Federalists generally supported a strong central government with power to enforce laws over states and individuals, protect property rights, control currency, and interact with foreign powers for security and trade purposes. Antifederalists believed that a strong central government would trample on states' rights and would infringe on individual rights as well. Many feared a return to the monarchy that the Revolutionary War had been fought to end. Among the Federalists were Samuel Johnston, James Iredell, and William R. Davie. The Antifederalists included Willie Jones, Samuel Spencer, and Thomas Person. After eleven days of debate, the Antifederalists prevailed by failing to ratify the document but passing a resolution that called for Congress to include a Bill of Rights. A second constitutional convention was called in November 1789. Although there was as yet no official bill of rights, actions had been taken in Congress to adopt one. Therefore, the state ratified the Constitution on November 21, 1789 and approved the Bill of Rights on December 22, 1789. While North Carolina was the next to the last of the thirteen original colonies to ratify the Constitution, it was the third to approve the document guaranteeing individual freedoms.

Each state was provided with a copy of the proposed Bill of Rights in 1789. North Carolina's copy was kept in the State Capitol in Raleigh. At the end of the Civil War, when Raleigh was occupied by Federal troops, a Union soldier removed the copy from the Capitol. He soon sold it to a man named Charles A. Shotwell. State officials were approached by various sellers over the years but refused to buy what they believed to be property rightfully belonging to the state. In March 2003, authorities learned that the document was about to be sold again, and an F.B.I. undercover operation was arranged to recover the missing document. The state sought ownership of the document in federal court. Although the federal courts awarded possession to North Carolina, the issue of ownership remains pending in state court.





Federalist or Antifederalist?



As Americans discussed the newly drafted Constitution in 1787-1789, they divided into two schools of thought. The Federalists supported the Constitution as proposed by the Continental Congress. They believed that a strong central government was best, particularly in regard to national defense and budget matters. The Anti-federalists were opposed to the Constitution, because they feared it would infringe on states' rights. They believed there should be a bill of rights to protect individual freedoms.

Below are quotes from two prominent statesmen. One is Antifederalist Patrick Henry of Virginia. His arguments were made while Virginia was deciding whether to ratify the Constitution. The other is Federalist James Iredell from North Carolina. He wrote a letter in support of the Constitution after the North Carolina convention initially failed to ratify it. Read the quotes below and write in the last block whether you believe the statement was made by Patrick Henry or by James Iredell.

Quote	Who Said It?
If you give up these powers, without a bill of rights, you will exhibit the most absurd thing to mankind that ever the world saw—government that has abandoned all its powers—the powers of direct taxation, the sword, and the purse. You have disposed of them to Congress, without a bill of rights—without check, limitation, or control.	
...[the constitution's] leading principle is, that in all cases where the peace and interest of the union at large are concerned we should, as one people be united in a common object, be governed by common counsels...	
[Speaking of a state that does not ratify the Constitution:] We have no alliance with any power on earth. We have no right, if attacked, to call on the other states for assistance. Our own prowess and resources must defend us against all mankind, or we must sink in a conflict, unless assisted by the charity of others. Can we much longer bear so humiliating, so dangerous a condition?	
... if Congress were vested with supreme power of legislation, paramount to the constitution and laws of the states, the dangers...[of the federal government overstepping its power] might happen.	
A bill of rights may be summed up in a few words. What do they tell us?—That our rights are reserved.	

Sources:

Minutes of the Virginia Ratifying Convention, June 16, 1788. Available www.constitution.org

The Papers of James Iredell, vol. III. Raleigh: North Carolina Office of Archives and History, 2003.

ANSWER KEY

Federalist or Antifederalist?

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...[the Constitution's] leading principle is, that in all cases where the peace and interest of the union at large are concerned we should, as one people be united in a common object, be governed by common counsels..	James Iredell: he argues that we need to band together for the common good.
[Speaking of a state that does not ratify the Constitution:] We have no alliance with any power on earth. We have no right, if attacked, to call on the other states for assistance. Our own prowess and resources must defend us against all mankind, or we must sink in a conflict, unless assisted by the charity of others. Can we much longer bear so humiliating, so dangerous a condition?	James Iredell: points out the dangers of remaining outside of the Union
...if Congress were vested with supreme power of legislation, paramount to the constitution and laws of the states, the dangers ... described might happen	Patrick Henry: again he makes the point that giving Congress too much power is dangerous.
A bill of rights may be summed up in a few words. What do they tell us?—That our rights are reserved.	Patrick Henry: explaining why Virginia should hold out for a bill of rights.

Sources:

Minutes of the Virginia Ratifying Convention, June 16, 1788. Available www.constitution.org

The Papers of James Iredell, vol. III. Raleigh: North Carolina Office of Archives and History, 2003.



Declaration of Rights or Bill of Rights?

The men who drafted North Carolina's first Constitution in 1776 also adopted a Declaration of Rights to protect personal freedoms. In 1788, when the state was deciding whether to adopt the Constitution of the United States, one of the primary concerns was the lack of a bill of rights. Another version of the Declaration of Rights was issued. Shortly after North Carolina adopted the Constitution in November 1789, the state also ratified the Bill of Rights.

For this exercise, print a transcript of the Bill of Rights. You may find it at the National Archives website http://www.archives.gov/national-archives-experience/charters/bill_of_rights_transcript.html

The first ten amendments to the Constitution are known as the Bill of Rights. In the left column is an amendment from the Declaration of Rights of 1788. Using your copy of the Bill of Rights, determine if the issue included in the Declaration of Rights is also addressed in the Bill of Rights. If the answer is yes, determine which amendment contains that right and if it differs from the North Carolina Declaration of Rights.

Declaration of Rights	Does this item appear in the Bill of Rights? Answer yes or no.	If yes, in which amendment(s) of the Bill of Rights does it appear?	Is it different in any way? If yes, briefly explain the differences.
Example: 14. That every free-man has a right to be secure from all unreasonable searches, and seizures of his person, his papers, and property...	yes	4th	omits reference to freemen
8. That in all capital and criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence and be allowed counsel in his favor...			
18. That no soldier in time of peace ought to be quartered in any house without the consent of the owner, and in time of war in such manner only as the Laws direct.			
13. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.			
6. That elections of Representatives in the legislature ought to be free and frequent...			

Declaration of Rights	Does this item appear in the Bill of Rights? Answer yes or no.	If yes, in which amendment of the Bill of Rights does it appear	Is it different in any way? If yes, briefly explain the differences.
17. That the people have a right to keep and bear arms; that a well-regulated militia composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state. That standing armies in time of peace are dangerous to Liberty, and therefore ought to be avoided...			
15. That the people have a right peaceably to assemble together to consult for the common good, or to instruct their representatives;			
20. ...all men have an equal, natural, and unalienable right to the free exercise of religion according to the dictates of conscience, and that no particular religious sect or society ought to be favoured or established by law in preference to			
16. ...that the freedom of the press is one of the greatest bulwarks of Liberty, and ought not to be violated.			
5. That the legislative, executive and judiciary powers of the government should be separate and distinct...			

This exercise may be done individually or in groups. Students will need a copy of a transcript of the Bill of Rights, which they may access at http://www.archives.gov/national-archives-experience/charters/bill_of_rights_transcript.html.

Give background on the ratification of the Constitution and the Bill of Rights. Explain that several states, including North Carolina, had a version of a bill of rights in their early state constitutions. North Carolina's version was called a Declaration of Rights. [Note: A slightly different version of the Declaration of Rights appears in the constitutional convention journal of 1788. The rights listed here are from that version.] Have students look at the image of the original Bill of Rights but also provide them with a copy of a transcription of the document. Explain that the first article in the document presented to the states for consideration was never ratified by the states, and article two was not ratified until 1992, when it became the twenty-seventh amendment. Therefore, articles three through 12 became the first ten amendments to the Constitution, also known as the Bill of Rights.

Declaration of Rights	Does this item appear in the Bill of Rights? Answer yes or no.	If yes, in which amendment of the Bill of Rights does it appear?	Is it different in any way? If yes, briefly explain the differences.
14. That every freeman has a right to be secure from all unreasonable searches, and seizures of his person, his papers, and property...	yes	4th amendment	omits reference to freemen
8. That in all capital and criminal prosecutions, a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence and be allowed counsel in his favor...	yes	6th	basically the same
18. That no soldier in time of peace ought to be quartered in any house without the consent of the owner, and in time of war in such manner only as the Laws direct.	yes	3rd	basically the same
13. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.	yes	8th	the same
6. That elections of Representatives in the legislature ought to be free and frequent...	No		elections are addressed in the body of the Constitution

TEACHER GUIDE, P. 2

Declaration of Rights	Does this item appear in the Bill of Rights? Answer yes or no.	If yes, in which amendment of the Bill of Rights does it appear	Is it different in any way? If yes, briefly explain the differences.
17. That the people have a right to keep and bear arms; that a well-regulated militia composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free state. That standing armies in time of peace are dangerous to Liberty, and therefore ought to be avoided...	yes	2nd amendment	The Declaration of Rights indicates that standing armies should not exist in time of peace; but the Constitution provides for an army and navy. It does stipulate that they will be governed by the civil power by making the president commander-in-chief.
15. That the people have a right peaceably to assemble together to consult for the common good, or to instruct their representatives;	yes	1st amendment	Bill of Rights does not mention representatives
20. ...all men have an equal, natural, and unalienable right to the free exercise of religion according to the dictates of conscience, and that no particular religious sect or society ought to be favoured or established by law in preference to others.	yes	1st amendment	stated more succinctly
16. ...that the freedom of the press is one of the greatest bulwarks of Liberty, and ought not to be violated.	yes	1st amendment	stated more succinctly, but basically the same
5. That the legislative, executive and judiciary powers of the government should be separate and distinct...	no		This is provided for within the body of the Constitution

Enrichment and Extension

Activity 1

Divide students into Federalists and Antifederalists for the purpose of debating adoption of the constitution. Have each group study and discuss among themselves their assigned position.

Distribute copies of the list of rules drawn up by the legislature at the convention of 1788 (provided with resources). Explain to students that in the 18th century, the “s” often appeared as an “f”. Guide students in reading the document.

Ask the group to elect a president to preside over the convention. Members of the two groups should present their views within the context of the stated rules. When debate has been exhausted, the president should call for the vote.

Activity 2

Ask students to bring in a copy of a current newspaper. Provide them with copies of the 18th century Fayetteville *Gazette*. Give students an opportunity to study the two, and lead them in a discussion of the differences in the papers. Challenge students to determine what issues are addressed in the articles in the 18th century paper.

These lesson plans and materials may be used to address the following curriculum standards in the social studies course of study:

8th grade

2.02 Describe the contributions of key North Carolina and national personalities from the Revolutionary War era and assess their influence on the outcome of the war.

2.05 Describe the impact of documents such as the Mecklenburg Resolves, the Halifax Resolves, the Albany Plan of Union, the Declaration of Independence, the State Constitution of 1776, the Articles of Confederation, the United States Constitution, and the Bill of Rights on the formation of the state and national governments.

9.02 Identify past and present state and local leaders from diverse cultural backgrounds and assess their influence in affecting change.

Civics and Economics

1.06 Compare viewpoints about government in the Federalist and the Anti-Federalist Papers.

1.07 Evaluate the extent to which the Bill of Rights extended the Constitution.

2.01 Identify principles in the United States Constitution.

2.02 Explain how the United States Constitution defines the framework, organization and structure of the three branches of government at the national level.

2.07 Identify modern controversies related to powers of the federal government that are similar to the debates between Federalists and Anti-Federalists over ratification of the United States Constitution.

US History

1.02 Analyze the political freedoms available to the following groups prior to 1820: women, wage earners, landless farmers, American Indians, African Americans, and other ethnic groups.

1.01 Identify the major domestic issues and conflicts experienced by the nation during the Federalist Period.

American Government

1.02 Identify fundamentals of the United States Constitution and changes made over time.

1.03 Distinguish between federal and state powers as established in the United States Constitution.

1.04 Analyze the intent of the Founding Fathers in the creation of our early documents.

1.05 Analyze the influences of the early documents on our present plan of government.

6.01 Explain the rights guaranteed to citizens in both the United States and North Carolina Constitutions.